

## Agency for International Development

## § 213.26

which is owed to the United States and:

(1) Except for judgement debt or other debts specifically exempt from this requirement, is referred within 10 years after AID's right of action accrues;

(2) In the case of individuals, is at least \$25.00;

(3) In the case of business debtors is at least \$100.00;

(4) In the case of individual debtors, cannot be currently collected pursuant to the salary offset provisions of 5 U.S.C. 5514(a);

(5) Is ineligible for or cannot be currently collected pursuant to the administrative offset provisions of 31 U.S.C. 3716;

(6) Is the debt of a debtor (or in the case of an individual debtor, his or her spouse) for whom AID records do not show debtor has filed for bankruptcy under title 11 of the United States Code or for whom AID can clearly establish at the time of the referral that an automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect;

(7) Has been disclosed by AID to a consumer reporting agency as authorized by 31 U.S.C. 3711(f); and

(8) For which AID has given notice, considered any evidence, and determined that the debt is past-due and legally enforceable under the provisions of this subpart.

### § 213.23 Administrative charges.

All administrative charges incurred in connection with the referral of debts to the IRS will be added to the debt, thus increasing the amount of the offset.

### § 213.24 Pre-offset notice.

(a) Before AID refers a debt to the IRS, it will notify or make a reasonable attempt to notify the debtor that:

(1) The debt is past due;

(2) Unless repaid within 60 calendar days thereafter, the debt will be referred to the IRS for offset against any overpayment of tax;

(3) The debtor has at least 60 days from the date of the notice to present evidence that all or part of such debt is not past-due or not legally enforceable; and

(4) AID will consider any evidence presented by the debtor and determine whether any part of such debt is past-due and legally enforceable.

(b) The notice will explain to the debtor the manner in which the debtor may present such evidence to AID.

### § 213.25 Reasonable attempt to notify and clear and concise notification.

(a) *Reasonable attempt to notify.* AID will have made a reasonable attempt to notify the debtor under § 213.24(a) it is used a mailing address for the debtor obtained from the IRS pursuant to the Internal Revenue Code, 26 U.S.C. 6103 (m)(2) or (m)(4), unless AID receives clear and concise notification from the debtor that notices are to be sent to an address different from the address obtained from the IRS.

(b) *Clear and concise notification.* Clear and concise notification means that the debtor has provided AID with written notification containing the debtor's name and identifying number (as defined in the Internal Revenue Code, 26 U.S.C. 6109), the debtor's new address, and the debtor's intent to have the notices sent to the new address.

### § 213.26 Consideration of evidence and notification of decision.

(a) AID will give the debtor at least 60 days from the date of the pre-offset notice to present evidence. Evidence that collection of the debt is affected by a bankruptcy proceeding involving the debtor shall bar referral of the debt.

(b) If the evidence presented is not considered by an employee of AID but by an entity or person acting for AID, the debtor will have at least 30 days from the date the entity or person notifies the debtor that all or part of the debt is past-due and legally enforceable to request review by an employee of AID of any unresolved dispute.

(c) AID will provide the debtor with its decision and the decision of any entity or person acting for AID on to whether all or part of the debt is past-due and legally enforceable. The decision will include a statement of the basis or principal bases for the decision.